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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D 2002 63052

SUSAN NORMANDY BLUMENTHAL
511 Bonhill Road
Los Angeles, CA 90049

A C C U S A T I O N

Physical Therapist License No. PT 9054

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about March 15, 1979, the Physical Therapy Board of California issued Physical Therapist License Number PT 9054 to Susan Normandy Blumenthal (respondent). The Physical Therapist License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2006, unless renewed.

JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board), under the authority of the following sections of the Business and Professions

1 Code (Code).

2 4. Section 2660 of the Code states, in pertinent part:

3 “The board may, after the conduct of appropriate proceedings under the
4 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or
5 impose probationary conditions upon, or issue subject to terms and conditions any
6 license, certificate, or approval issued under this chapter for any of the following causes:

7 * * *

8 “(h) Gross negligence in his or her practice as a physical therapist.

9 “(i) Conviction of a violation of any of the provisions of this chapter or of the
10 State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or
11 assisting in or abetting the violating of, or conspiring to violate any provision or term of
12 this chapter or of the State Medical Practice Act.

13 “(j) The aiding or abetting of any person to violate this chapter or any regulations
14 duly adopted under this chapter.

15 “(k) The aiding or abetting of any person to engage in the unlawful practice of
16 physical therapy.

17 “(l) The commission of any fraudulent, dishonest, or corrupt act which is
18 substantially related to the qualifications, functions, or duties of a physical therapist.”

19 5. Section 2630 of the Code states, in pertinent part:

20 “A physical therapist . . . may utilize the services of one aide engaged in patient-
21 related tasks to assist the physical therapist in his or her practice of physical therapy. . . .
22 The aide shall at all times be under the orders, directions, and immediate supervision of
23 the physical therapist. . . . The physical therapist shall provide continuous and immediate
24 supervision of the aide. The physical therapist shall be in the same facility as, and in
25 proximity to, the location where the aide is performing patient-related tasks, and shall be
26 readily available at all times to provide advice or instruction to the aide. When patient-
27 related tasks are provided to a patient by an aide, the supervising physical therapist shall,
28 at some point during the treatment day, provide direct service to the patient as treatment

1 for the patient's condition, or to further evaluate and monitor the patient's progress, and
2 shall correspondingly document the patient's record."

3 6. Section 2620.7 of the Code states:

4 "A physical therapist shall document his or her evaluation, goals, treatment plan,
5 and summary of treatment in the patient record. Patient records shall be maintained for a
6 period of no less than seven years following the discharge of the patient, except that the
7 records of unemancipated minors shall be maintained at least one year after the minor has
8 reached the age of 18 years, and not in any case less than seven years."

9 7. California Code of Regulations, title 16, section 1399, states in pertinent
10 part:

11 "A physical therapy aide is an unlicensed person who assists a physical therapist
12 and may be utilized by a physical therapist in his or her practice by performing nonpatient
13 related tasks, or by performing patient related tasks.

14 "(a) As used in these regulations:

15 "(1) A 'patient related task' means a physical therapy service rendered directly to
16 the patient by an aide, excluding nonpatient related tasks as defined below.

17 "(2) A 'nonpatient related task' means a task related to observation of the patient,
18 transport of patients, physical support only during gait or transfer training, housekeeping
19 duties, clerical duties and similar functions.

20 "(b) 'Under the orders, direction and immediate supervision' means:

21 "(1) Prior to the initiation of care, the physical therapist shall evaluate every
22 patient prior to the performance of any patient related tasks by the aide. The evaluation
23 shall be documented in the patient's record.

24 "(2) The physical therapist shall formulate and record in the patient's record a
25 treatment program based upon the evaluation and any other information available to the
26 physical therapist, and shall determine those patient related tasks which may be assigned
27 to an aide. The patient's record shall reflect those patient related tasks that were rendered
28 by the aide, including the signature of the aide who performed those tasks.

“(3) The physical therapist shall assign only those patient related tasks that can be safely and effectively performed by the aide. The supervising physical therapist shall be responsible at all times for the conduct of the aide while he or she is on duty.

“(4) The physical therapist shall provide continuous and immediate supervision of the aide. The physical therapist shall be in the same facility as and in immediate proximity to the location where the aide is performing patient related tasks, and shall be readily available at all times to provide advice or instruction to the aide. When patient related tasks are provided a patient by an aide the supervising physical therapist shall at some point during the treatment day provide direct service to the patient as treatment for the patient's condition or to further evaluate and monitor the patient's progress, and so document in the patient's record.

* * *

“(6) The supervising physical therapist shall countersign with their first initial and last name, and date all entries in the patient's record, on the same day as patient related tasks were provided by the aide.”

8. Section 810 of the Code states in pertinent part:

“(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional activities:

* * *

“(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

“(b) It shall constitute cause for revocation or suspension of a license or certificate for a health care professional to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 550 of the Penal Code.”

9. Section 2661.5 of the Code states:

1 “(a) In any order issued in resolution of a disciplinary proceeding before
2 the board, the board may request the administrative law judge to direct any
3 licensee found guilty of unprofessional conduct to pay to the board a sum not to
4 exceed the actual and reasonable costs of the investigation and prosecution of the
5 case.

6 “(b) The costs to be assessed shall be fixed by the administrative law
7 judge and shall not in any event be increased by the board. When the board does
8 not adopt a proposed decision and remands the case to an administrative law
9 judge, the administrative law judge shall not increase the amount of the assessed
10 costs specified in the proposed decision.

11 “(c) When the payment directed in an order for payment of costs is not
12 made by the licensee, the board may enforce the order of payment by bringing an
13 action in any appropriate court. This right of enforcement shall be in addition to
14 any other rights the board may have as to any licensee directed to pay costs.

15 “(d) In any judicial action for the recovery of costs, proof of the board's
16 decision shall be conclusive proof of the validity of the order of payment and the
17 terms for payment.

18 “(e) (1) Except as provided in paragraph (2), the board shall not renew
19 or reinstate the license or approval of any person who has failed to pay all
20 of the costs ordered under this section.

21 (2) Notwithstanding paragraph (1), the board may, in its
22 discretion, conditionally renew or reinstate for a maximum of one year the
23 license or approval of any person who demonstrates financial hardship and
24 who enters into a formal agreement with the board to reimburse the board
25 within that one year period for those unpaid costs.

26 “(f) All costs recovered under this section shall be deposited in the
27 Physical Therapy Fund as a reimbursement in either the fiscal year in which the
28 costs are actually recovered or the previous fiscal year, as the board may direct.”

1 **FIRST CAUSE FOR DISCIPLINE**

2 (Gross Negligence/Supervision of Physical Therapy Aides)

3 10. Respondent is subject to disciplinary action under Code section 2660,
4 subdivisions (i), (j), (k), and (l), and section 2630, in conjunction with California Code of
5 Regulations Title 16, section 1399, in that she failed to properly supervise physical therapy aides
6 and failed to properly document treatment. The circumstances are as follows:

7 A. With respect to J.C.¹, respondent's patient was treated by a physical therapy
8 aide on February 26, 2001, without any direct supervision of the physical therapy aide, or
9 any direct service to the patient rendered by respondent.

10 B. With respect to N.S., respondent's patient was treated by a physical therapy
11 aide on January 20, 2001, without any documentation that the services were appropriately
12 delegated to the aide or that any direct supervision of the physical therapy aide was
13 provided by respondent, or that any direct service to the patient was rendered by
14 respondent.

15 C. With respect to B.K., respondent's patient was treated by a physical
16 therapy aide on September 5, 8, 19, 22 and 29, October 10, 17, 27 and 31, November 3, 7,
17 10, 14, 17, 19, 21 and 24, December 1, 3, 8, 10, 17 and 19, 1997, without any
18 documentation that the services were appropriately delegated to the aide or that any direct
19 supervision of the physical therapy aide was provided by respondent, or that any direct
20 service to the patient was rendered by respondent.

21 D. As to each of the above-mentioned patients, respondent failed to properly
22 document any specific services provided by respondent and the specific services
23 delegated to and provided by a physical therapy aide.

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28 1. All patients are referred to herein by their initials to protect their privacy. The full
names of all patients will be disclosed to respondent upon a timely request for discovery.

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3. Taking such other and further action as deemed necessary and proper.

DATED: May 12, 2005

Original Signed By: _____
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant

Blumenthal Accusation.wpd